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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/661,859	09/12/2003	Jeffery T. Hebbard	013002-9050-00	8766
23409	7590	08/09/2005	EXAMINER	
MICHAEL BEST & FRIEDRICH, LLP 100 E WISCONSIN AVENUE MILWAUKEE, WI 53202			TORRES, ALICIA M	
			ART UNIT	PAPER NUMBER

3671

DATE MAILED: 08/09/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

**Office Action Summary**

Application No.

10/661,859

Applicant(s)

HEBBARD ET AL.

Examiner

Alicia M. Torres

Art Unit

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☒ Responsive to communication(s) filed on 12 May 2005.
- 2a) ☐ This action is FINAL. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 1-3, 6-8, 10-12, 14 and 23-25 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☒ Claim(s) 1, 2, 6-8, 15-20, 23, 25 is/are allowed.
- 6) ☒ Claim(s) 3, 10, 12 and 24 is/are rejected.
- 7) ☒ Claim(s) 11 and 14 is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

- 1) ☐ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)  
Paper No(s)/Mail Date \_\_\_\_\_
- 4) ☐ Interview Summary (PTO-413)  
Paper No(s)/Mail Date. \_\_\_\_\_
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: \_\_\_\_\_

## DETAILED ACTION

### *Claim Rejections - 35 USC § 103*

1. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

2. Claims 3 and 24 are rejected under 35 U.S.C. 103(a) as being unpatentable over Nuss EP 0009774 in view of Nahata JP 5-219815.

3. Regarding claim 3, Nuss discloses a lawnmower comprising:

- A deck (4)
- An engine (unnumbered) with an output shaft (not shown)
- A cutting blade (not shown) connected to the output shaft
- A mower handle (3) extending upward from the deck (4)
- A bag assembly (1) for receiving clippings releasably attached to the mower including
  - A frame (7)
  - A bag (8) attached to the frame (7)
  - A bag opening (unnumbered) aligned with a discharge opening (5)
  - A wheel (12) stowed atop the frame (7) and adjacent the mower handle (3) during mower operation and the wheel (12) is on the bottom and supporting

the bag (1) when the assembly is detached from the mower to roll the bag (1) away from the mower.

However, Nuss fails to disclose a bag handle movable between an extended position and a retracted position only when the bag is detached from the mower.

Nahata discloses a mower with a bag assembly (2) wherein the bag handle (26) is movable between an extended position and a retracted position only when the bag (2) is detached from the mower.

It would have been obvious to one having ordinary skill in the art at the time the invention was made to include the bag handle of Nahata on the bag assembly of Nuss in order to provide a stowable handle during operation and available for handling the bag assembly.

4. Regarding claim 24, Nuss discloses a lawnmower comprising:

- A deck (4)
- An engine (unnumbered) with an output shaft (not shown)
- A cutting blade (not shown) connected to the output shaft
- A mower handle (3) extending upward from the deck (4)
- A bag assembly (1) for receiving clippings releasably attached to the mower including
  - A frame (7)
  - A bag (8) attached to the frame (7)
  - A bag opening (unnumbered) aligned with a discharge opening (5)

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- A wheel (12) stowed atop the frame (7) and adjacent the mower handle (3) during mower operation and the wheel (12) is on the bottom and supporting the bag (1) when the assembly is detached from the mower to roll the bag (1) away from the mower
- A bag handle.

However, Nuss fails to disclose wherein the bag handle is movable between an extended position and a retracted position only when the bag is detached from the mower and wherein a portion of the mower inhibits movement of the handle from the retracted position to the extended position when the bag is attached to the mower.

Nahata discloses a mower with a bag assembly (2) wherein the bag handle (26) is movable between an extended position and a retracted position only when the bag (2) is detached from the mower and wherein a portion (13) of the mower inhibits movement of the handle (26) from the retracted position to the extended position when the bag (2) is attached to the mower.

It would have been obvious to one having ordinary skill in the art at the time the invention was made to include the bag handle of Nahata on the bag assembly of Nuss in order to provide a stowable handle during operation and available for handling the bag assembly.

5. Claims 10 and 12 are rejected under 35 U.S.C. 103(a) as being unpatentable over Nuss in view of Nahata and Sugiyama et al. 6,735,930.

6. Regarding claim 10, Nuss discloses a lawnmower comprising:

- A deck (4)

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- An engine (unnumbered) with an output shaft (not shown)
- A cutting blade (not shown) connected to the output shaft
- A mower handle (3) extending upward from the deck (4)
- A bag assembly (1) for receiving clippings releasably attached to the mower including
  - A frame (7)
  - A bag (8) attached to the frame (7)
  - A bag opening (unnumbered) aligned with a discharge opening (5)
  - A wheel (12) on an axle stowed atop the frame (7) and adjacent the mower handle (3) during mower operation and the wheel (12) is on the bottom and supporting the bag (1) when the assembly is detached from the mower to roll the bag (1) away from the mower
  - Means for attaching the bag to the mower
  - A lifting bar to facilitate lifting the bag.

However Nuss fails to disclose a bag handle movable between an extended position and a retracted position only when the bag is detached from the mower and everything being contained in the bag, except for the means for attaching, the lifting bar, and the axle.

Nahata discloses a mower with a bag assembly (2) wherein the bag handle (26) is movable between an extended position and a retracted position only when the bag (2) is detached from the mower.

Sugiyama discloses a similar mower (2) wherein everything is included in the bag (9) except for the active parts, such as lifting bar (16).

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It would have been obvious to one having ordinary skill in the art at the time the invention was made to include the bag handle of Nahata on the bag assembly of Nuss in order to provide a stowable handle during operation and available for handling the bag assembly.

It would have been obvious to one having ordinary skill in the art at the time the invention was made to include the bag of Sugiyama on the bag assembly of Nuss in order to allow access to active parts.

7. Regarding claim 12, Nuss discloses a bag assembly for use on a mower having a deck and discharge opening, the bag assembly comprising:

- A frame
- Means for releasably mounting the frame to the mower
- A bag supported by the frame and having a bag opening aligning with the discharge opening
- A bag handle coupled to the frame
- An axle-mounted wheel mounted to the frame in stowed condition when the bag is mounted to the mower and supporting the bag when the bag is detached from the lawnmower to facilitate rolling the bag assembly away from the mower
- A lifting bar on the bag assembly.

However, Nuss fails to disclose wherein the bag handle is movable between an extended position and a retracted position, the mower inhibiting movement of the handle from the retracted position when the frame is attached to the mower; and

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the frame is contained within the bag except for the means for attaching, the lifting bar and the axle.

Nahata discloses a mower with a bag assembly (2) wherein the bag handle (26) is movable between an extended position and a retracted position only when the bag (2) is detached from the mower.

Sugiyama discloses a similar mower (2) wherein everything is included in the bag (9) except for the active parts, such as lifting bar (16).

It would have been obvious to one having ordinary skill in the art at the time the invention was made to include the bag handle of Nahata on the bag assembly of Nuss in order to provide a stowable handle during operation and available for handling the bag assembly.

It would have been obvious to one having ordinary skill in the art at the time the invention was made to include the bag of Sugiyama on the bag assembly of Nuss in order to allow access to active parts.

### ***Response to Arguments***

8. Applicant's arguments with respect to the claims have been considered but are moot in view of the new ground(s) of rejection.

### ***Allowable Subject Matter***

9. Claims 11, 14, 23 are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

Claims 1, 2, 6-8, 15-20, 23, 25 are allowed.



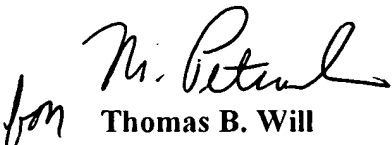
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*Conclusion*

10. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Alicia M. Torres whose telephone number is 571-272-6997. The examiner can normally be reached Monday through Thursday from 7:00 a.m. – 4:30 p.m.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Thomas B. Will, can be reached at 571-272-6998.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the group receptionist whose telephone number is 703-305-1113. The fax number for this Group is 571-273-8300.

  
for Thomas B. Will  
Supervisory Patent Examiner  
Group Art Unit 3671

AMT  
August 8, 2005